

Exhibit 208

Page 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----)
)
CF 135 FLAT LLC, CF 135)
WEST MEMBERS LLC)
and THE CHETRIT GROUP, LLC,)
) Case No.
) 15-cv-05345-AJN
)
Interpleader Plaintiffs,)
)
-against-)
TRIADOU SPV S.A., CITY OF ALMATY,)
a foreign city, and BTA Bank,) AMENDED CROSS-
) CLAIMS
Interpleader Defendants.)
)
)
-----)
)
CITY OF ALMATY, KAZAKHSTAN)
and BTA BANK,)
)
Crossclaim Plaintiffs,)
)
)
-against-)
)
MUKHTAR ABLYAZOV,)
VIKTOR KHRAPUNOV,)
ILYAS KHRAPUNOV,)
TRIADOU SPV S.A.,)
and FBME BANK LTD.,)
)
Crossclaim Defendants.)
)
-----)

VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION

of
MR. NICOLAS BOURG (DAY ONE)
On Monday, 11th September 2017

1

2 Sunday before today; is that right?

3 A. Yes.

4 Q. Do you understand that I and my
5 firm represent BTA Bank in the city of Almaty in a
6 dispute that they are having with the Khrapunovs
7 and with other individuals, namely the Ablyazovs?

8 (Mr. Boyle left the room)

9 A. Yes.

10 Q. Were you obligated, for any reason,
11 to meet with us, meaning Boies Schiller, on
12 Saturday and Sunday?

13 A. No.

14 Q. Have you entered into agreements
15 with my clients BTA Bank and the city of Almaty as
16 well as some other parties that require you to
17 assist in asset recovery efforts?

18 A. Yes.

19 Q. How did you come to enter into
20 those agreements?

21 A. The lawyers of BTA and Arcanum came
22 to see me and explained that they have a dispute
23 with Mr. Chetrit in New York. They had heard that
24 I had a disagreement with Mr. Chetrit in New York
25 and asked if I wished against a release to help

Page 22

1

2 them.

3 Q. We will talk about this in some
4 more detail later, but can you just briefly tell
5 us who Mr. Chetrit is?

6 A. Mr. Chetrit is a, is the owner of
7 Chetrit Capital and a big real estate developer in
8 New York and the US and, who was involved in the
9 sale of Flatotel and Cabrini in which Triadou
10 invested.

11 Q. What is Triadou?

12 A. Triadou is a company owned by SDG
13 Capital. The objective of which is to invest in
14 real estate in the US, of which I was the only CEO
15 until 2014. Director, sorry.

16 Q. Were the investments that Triadou
17 made, with respect to Mr. Chetrit, investments
18 that you were doing in connection with your work
19 with Ilyas Khrapunov?

20 A. Yes.

21 Q. You testified a moment ago that
22 lawyers for BTA and some others ----

23 THE WITNESS: Arcanum.

24 BY MR. SKINNER:

25 Q. -- and Arcanum came to you and said

1

2 they understood that you were in a dispute with
3 Mr. Chetrit; is that right?

4 A. (Through the Interpreter) Yes.

5 Q. You say that they offered you a
6 release in exchange for your assistance?

7 A. To be more precise, I wrote, or
8 rather my lawyer in the US, Robert Wolf, wrote a
9 letter to Chetrit of disagreement and Mr. Chetrit
10 filed a letter to the New York court mentioning
11 the origin of the capital, and the lawyers of BTA
12 and Arcanum were interested in the recovery of
13 assets and found the link between me and the
14 Khrapunov family.

15 Q. Mr. Bourg, what do you mean by the
16 "origin of the capital"?

17 A. Khrapunov and Ablyazov.

18 Q. Are you saying that the capital
19 belonged to Khrapunov and Ablyazov?

20 MR. HASSID: Objection.

21 A. Yes, that's what I mean.

22 BY MR. SKINNER:

23 Q. And what capital are you referring
24 to?

25 A. Well, as I said the SDG was set up

1

2 by Ilyas Khrapunov and essentially the capital
3 came from the Khrapunov family and, in a wider
4 sense, from Ablyazov.

5 Q. What had the capital been used for?

6 A. To invest in real estate projects.

7 Q. And did those real estate projects
8 include the Flatotel and Cabrini projects that you
9 mentioned a moment ago?

10 A. Yes.

11 Q. Now, you say that you were offered
12 a release in exchange for your assistance;
13 correct?

14 A. Yes.

15 Q. What do you mean by a "release"?

16 MR. HASSID: Objection.

17 A. Simply that BTA and the state of
18 Kazakhstan would not pursue me any longer.

19 BY MR. SKINNER:

20 Q. Pursue you?

21 A. Would not file a suit against me;
22 initiate proceedings.

23 Q. So, they were releasing you from
24 future legal proceedings?

25 A. Yes.

1

2 Capital?

3 A. Yes, I was entitled to a part of
4 the profits on the profits made by the real estate
5 developments, which I was managing.

6 Q. Okay, and how much of the profit
7 were you entitled to under your agreement with SDG
8 Capital?

9 A. Well, it was a rule which we
10 established under SDG and the management agreement
11 which I had that it should be somewhere in the
12 region of 20%.

13 Q. Has Triadou invested in two
14 properties called Flatotel and Cabrini; is that
15 right?

16 A. Yes.

17 Q. Where were these properties
18 located?

19 A. New York.

20 Q. Did Triadou have any partners in
21 its investment in these properties?

22 A. Yes, there was Chetrit.

23 Q. What was Triadou's role and what
24 was Chetrit's role?

25 A. Well, Chetrit was in charge of

1

2 developing and completing the project and Triadou
3 was the investor.

4 Q. And where did Triadou get the
5 capital it invested?

6 A. Telford International.

7 Q. And how do you know that?

8 A. Because I saw the Telford
9 International SWIFTS.

10 Q. The SWIFTS are bank records?

11 A. Yes.

12 Q. How much did Triadou invest in each
13 of these projects?

14 A. 6 million for Cabrini and 35
15 million for Flatotel.

16 Q. Do you know where Telford got the
17 capital that it paid, for these investments?

18 A. Mr. Khrapunov told me that these
19 were funds which came from Mr. Ablyazov.

20 Q. And who is Mr. Ablyazov?

21 A. Ilyas Khrapunov's father-in-law.

22 Q. Just to be clear with which
23 Mr. Khrapunov you are talking about, was this
24 Ilyas Khrapunov who told you that
25 Mr. Ablyazov ----

1

2 A. Yes.

3 Q. Have you ever met Ilyas Khrapunov's
4 father?

5 A. Yes.

6 Q. And what's his name?

7 A. Viktor.

8 Q. During all of your testimony today,
9 have you been talking thus far, when you said
10 Mr. Khrapunov, about Ilyas?

11 A. Yes.

12 Q. So I am going to assume, going
13 forward, that when we talk about Mr. Khrapunov,
14 you are referring to Ilyas, okay?

15 A. Yes.

16 Q. If you ever are referring to
17 something that Viktor Khrapunov did, please,
18 identify him specifically by the name Viktor.

19 A. Okay.

20 Q. Do you have an understanding as to
21 why Telford made the payments for the project
22 rather than Triadou?

23 MR. HASSID: Objection.

24 A. Well, Triadou simply did not have
25 the necessary funds.

1

2 BY MR. SKINNER:

3 Q. Did Triadou have a bank account?

4 A. Yes.

5 Q. So why wasn't the money for the
6 investment transferred into Triadou's bank account
7 and Triadou, then, would make the payment?

8 A. We attempted to transfer the
9 capital from Telford to Triadou but the Luxembourg
10 bank prevented it, or would not do it.

11 Q. Do you know why the Luxembourg bank
12 prevented the transfer from capital into Triadou?

13 A. No, but I think it is because
14 Telford's bank, the FBME, had a bad reputation.

15 Q. So, just to be clear, Triadou owned
16 interest in these two properties, Flatotel and
17 Cabrini?

18 A. Yes.

19 Q. But the payment for those interests
20 was made by a company called Telford?

21 THE WITNESS: Oui.

22 BY MR. SKINNER:

23 Q. And is your understanding that
24 Telford's money came from Mr. Ablyazov?

25 A. (Through the Interpreter) Yes.

1

2 Q. And you believe that because that
3 is what Ilyas Khrapunov told you?

4 A. Yes.

5 MR. KENNEY: Can I ask to have that
6 last question read back? Sorry, withdrawn. Got
7 it.

8 MR. SKINNER: Can we mark this as
9 Bourg Exhibit 3.

10 (Exhibit 3 was marked for identification)

11 MR. HASSID: I will just state for
12 the record or ask for the record whether this
13 document had an e-mail associated with it?

14 THE INTERPRETER: Is this a
15 question for Mr. Bourg?

16 MR. HASSID: No, this is a question
17 for counsel.

18 MR. BOYLE: I don't know. I
19 believe it did.

20 MR. HASSID: Then we'll object to
21 it being provided to the witness in incomplete
22 form.

23 BY MR. SKINNER:

24 Q. Okay. Can you look at what we
25 marked as Bourg Exhibit 3, please?

1

2 THE WITNESS: Oui.

3 BY MR. SKINNER:

4 Q. It's a two page document, pages
5 front and back. Looking at the back page, do you
6 see what appears to be a printout of a
7 spreadsheet?

8 A. (Through the Interpreter) Yes.

9 Q. Do you recognise the entities and
10 the amounts and the dates that are on this
11 spreadsheet?

12 MR. HASSID: Objection.

13 A. Yes.

14 BY MR. SKINNER:

15 Q. What are they?

16 A. These are the payments made by
17 Telford to the US projects.

18 Q. So at the top here we have Flatotel
19 in the first square at the top; is that right?

20 A. Yes.

21 Q. And it indicates that the total
22 payment for Flatotel was \$34,885,565?

23 A. Yes.

24 Q. And that the payments were made in
25 five payments, beginning in November 2012 and

1

2 ending on April 13th of 2013?

3 A. Yes.

4 Q. Is that consistent with your
5 understanding of how the payments were actually
6 made by Telford on Triadou's behalf with respect
7 to Triadou's investment?

8 A. Yes.

9 Q. Do you see in the box under
10 "Flatotel" where it says "Cabrini"?

11 A. Yes.

12 Q. It says that one payment was made
13 in the amount of \$6,189,000 on May 20th 2013?

14 A. Yes.

15 Q. And again, is that consistent with
16 your understanding of the amount and time of the
17 payment that Telford made on Triadou's behalf for
18 its investment in Cabrini?

19 A. Yes.

20 Q. There is also payments here with
21 respect to something called Tri-County; is that
22 right?

23 A. Yes.

24 Q. And what is Tri-County?

25 A. It is a shopping mall in New York,

1

2 I am sorry, in Cincinnati.

3 Q. And what entity, or special purpose
4 vehicle invested in Tri-County?

5 A. Triadou.

6 Q. It says here Triadou paid roughly
7 \$35 million for the Flatotel project; correct?

8 A. Yes.

9 Q. Was that all of the money that
10 Triadou was obligated to pay?

11 A. I think that there was a last call
12 for capital, which hadn't been affected.

13 Q. At the beginning of the agreement,
14 how much had Triadou agreed to invest in the
15 Flatotel project?

16 A. About 40 million.

17 Q. Again, looking at Bourg Exhibit 3,
18 do you see where it says "Syracuse - loan from
19 ADLUX" -- sorry, let me ask the question again.

20 (To the Court Reporter) The
21 translation I think is getting a little bit in the
22 way of the court reporter's ability to hear. If
23 you have any trouble, just let us know, okay?

24 (To the witness) The question was:
25 Do you see where it says "Syracuse - loan from

1

2 ADLUX", A-D-L-U-X?

3 A. Yes.

4 Q. And what is -- what is that?

5 A. It's a real estate investment, in
6 Syracuse.

7 Q. And what is ADLUX?

8 A. It is a company owned by Ilyas
9 Khrapunov.

10 Q. So, was the Syracuse investment,
11 then, the origin of the funds was from a company
12 called ADLUX?

13 A. Yes.

14 Q. And the origin of the funds for the
15 Flatotel and Cabrini projects were Telford;
16 correct?

17 A. Yes.

18 Q. Where do the funds for the
19 Tri-County project come from?

20 A. Telford.

21 Q. You mentioned a moment ago that
22 Ilyas Khrapunov told you that the money for the
23 Flatotel and Cabrini investments came from
24 Mr. Ablyazov; correct?

25 A. Yes, he told me that the funds,

1

2 which were owned by Telford, came from
3 Mr. Ablyazov.

4 Q. And to your knowledge, did he make
5 similar statements to any other people?

6 A. Not as far as I know.

7 Q. To your knowledge, did Mr. Ablyazov
8 play any role in the real estate investments that
9 Triadou was making in the United States?

10 A. My understanding is that the final
11 decision was Mr. Ablyazov's.

12 Q. And by "the final decision", you
13 mean the final decision as to whether to invest or
14 not?

15 A. Yes.

16 Q. How do you know that?

17 A. Because Ilyas told me.

18 Q. Do you have any examples of
19 instances where it was evident to you that
20 Mr. Ablyazov was approving the investment?

21 A. Not as far as I know.

22 Q. When you -- with respect to the
23 schedule of payments that are reflected on Bourg
24 Exhibit 3, who approved those payments being made?

25 A. Ilyas Khrapunov.

1

2 Q. Alright and when you were speaking
3 with Mr. Khrapunov, did he ever delay his approval
4 of one of these payments because he needed to
5 speak to Mr. Ablyazov first?

6 MR. HASSID: Objection.

7 Q. It was more a question of upstream
8 global agreement and then afterwards the payment
9 was effected by Ilyas Khrapunov.

10 BY MR. SKINNER:

11 Q. If we are looking at the payments
12 that were made for the Flatotel, the first payment
13 in the amount of \$10.5 million roughly was made in
14 November 2012; correct?

15 A. Yes.

16 Q. Can you describe for us, please,
17 the conversations you had with Mr. Khrapunov in
18 connection with Mr. Khrapunov's authorisation for
19 that payment to be made?

20 A. I submitted to him a financial
21 analysis for the Flatotel project and he told me
22 that he had to get the approval of his
23 father-in-law and a couple of days later he came
24 back and said that it was approved.

25 Q. When you did your financial

1

2 analysis of the Flatotel, did you analyse what you
3 anticipated the profits from that project to be?

4 A. Of course.

5 Q. How much profit did you forecast,
6 based on the investment that Triadou was going to
7 make?

8 A. About 100 million.

9 Q. And the investment was roughly 40
10 million?

11 A. Yes.

12 Q. So, if I am correct, then, you were
13 anticipating net profits of roughly 60 million?

14 A. No.

15 Q. What were the net profits you were
16 expecting?

17 A. Between 80 and 100 million.

18 Q. Did there come a time when you
19 learned that Mr. Ablyazov had been imprisoned?

20 A. Yes.

21 Q. Where was he imprisoned?

22 A. In France.

23 Q. When did you learn that he had been
24 imprisoned?

25 A. July 2013.

1

2 Q. If we refer back to the list of
3 payments that are reflected on Bourg Exhibit 3,
4 what was the date of the last transfer that
5 Telford made for Triadou's benefit?

6 A. May 2013.

7 Q. Is it May or April?

8 A. May.

9 Q. And at that point, Triadou still
10 owed a little more than \$5 million in connection
11 with its original commitment to invest 40 million?

12 A. I am sorry, you were right. In the
13 case of Flatotel it was April, the last payment.

14 Q. So the last payment for Flatotel
15 was April of 2013?

16 A. Yes.

17 Q. And at that point, Triadou still
18 owed money under its agreement; correct?

19 A. Yes, but it hadn't been called yet.

20 Q. And did Triadou ever make any other
21 payments in connection with its agreement?

22 A. No.

23 Q. Did Triadou receive any funding
24 from Telford after Mr. Ablyazov was imprisoned in
25 July 2013?

1

2 A. Not as far as I know.

3 Q. And after Mr. Ablyazov's arrest,

4 did Triadou make any further investments?

5 A. Not as far as I know.

6 Q. Do you know an individual named
7 Eesh Aggarwal?

8 A. Yes.

9 Q. Who is that?

10 A. It was the manager of Telford.

11 Q. And when -- did Mr. Aggarwal play
12 any role in the payments that are reflected on
13 Bourg Exhibit 3 that Telford was making in the US
14 investments?

15 A. Yeah, he processed the payments.

16 Q. And how would you go about
17 contacting Mr. Aggarwal?

18 A. It was not I but Ilyas who
19 contacted him. I probably sent him some e-mails,
20 but at the behest of Ilyas.

21 Q. Let us mark this as Bourg 4.

22 Mr. Bourg, do you have the document we have marked
23 as Bourg Exhibit 4 in front of you?

24 (Exhibit 4 was marked for identification)

25 A. Yes.

1

2 A. They, in the trial -- in the legal
3 procedure they turned out to be investors in --
4 effective, the UBOs of Telford.

5 Q. In legal proceeding, you are
6 referring to the legal proceeding that you
7 testified at in May of 2016?

8 A. Yes, amongst others.

9 Q. And the first time that you had
10 heard that the Petelins were investing in Telford
11 was in May of 2016?

12 A. More or less, yes.

13 Q. Now, did there come a time when
14 Triadou decided to exit its investments in the
15 Flatotel and Cabrini projects?

16 A. Yes.

17 Q. And when did -- I will withdraw.
18 You were the sole director of Triadou; correct?

19 THE INTERPRETER: You were the
20 sole?

21 Q. The sole director of Triadou?

22 THE WITNESS: Oui.

23 BY MR. SKINNER:

24 Q. Did you decide to exit the
25 investments?

1

2 A. (Through the Interpreter) To come
3 out of it; to withdraw, you mean?

4 Q. Yes.

5 A. No, it was not me.

6 Q. Who made the decision to exit the
7 investments?

8 A. Ilyas Khrapunov.

9 Q. And how did you learn about that?

10 A. He asked me to sell our
11 participation, or our part, to Chetrit -- our
12 share, sorry.

13 Q. He asked you to sell your share to
14 Chetrit?

15 A. Yes.

16 Q. When was it that Ilyas Khrapunov
17 asked you to sell Triadou's share to Chetrit?

18 A. In 2014, April 2014.

19 Q. Did you think it was a good idea to
20 exit the position at that point in time?

21 A. No, I did not. I thought it was a
22 very bad idea.

23 Q. Why was that?

24 A. Because the project was going very
25 well. And I think as of today all the units have

1

2 been sold, and it was a project which,
3 potentially, could be very profitable.

4 Q. At that point in time, April of
5 2013; correct -- or '14 -- I am sorry, you had
6 said April 2014?

7 THE WITNESS: Yes, '14.

8 Q. At that point in time, had Triadou
9 realised any profits from the investment?

10 A. (Through the Interpreter) No.

11 Q. And if Triadou had realised
12 profits, you would have shared in those profits;
13 correct?

14 A. Yes, absolutely.

15 Q. You would have gotten 20%; is that
16 right?

17 A. More or less. That is what my
18 contract, at least, stated.

19 Q. So by -- to your mind, by selling
20 the position in April 2013 you were potentially
21 losing money out of your own pocket?

22 A. Yes, I agree.

23 Q. But Ilyas told you to do it?

24 A. Yes.

25 Q. Did you do it?

1

2 A. Yes.

3 Q. What, if anything, did Ilyas tell
4 you about why he wanted to sell the position at
5 that point in time?

6 A. He told me that there was the risk
7 of legal proceedings in the US on the part of BTA
8 and Kazakhstan, in order to recover the assets
9 that his family had in California, and so
10 therefore there weren't any assets in New York
11 which could risk being recovered.

12 MR. SKINNER: Can we take a very
13 brief break; is that all right with everybody?

14 THE VIDEOGRAPHER: We are going off
15 the record, the time is 11.26 a.m.

16 (Off the record at 11.26 a.m.)

17 (Back on the record at 11.37 a.m.)

18 THE VIDEOGRAPHER: We are back on
19 the record. The time is 11.37 a.m.

20 BY MR. SKINNER:

21 Q. Mr. Bourg, you testified a little
22 while ago that Ilyas Khrapunov told you to sell
23 Triadou's position back to Joe Chetrit; is that
24 right?

25 A. Yes.

1

2 to get -- asked Chetrit to get compensation from
3 me -- I am sorry, I that I bill Mr. Chetrit for
4 compensation which would be handed on to them.

5 Q. The deal that Triadou ultimately
6 struck with Mr. Chetrit to sell back its position,
7 did you recommend that deal to Ilyas Khrapunov?

8 THE WITNESS: No.

9 A. (Through the interpreter) No.

10 BY MR. SKINNER:

11 Q. Were you opposed to that deal?

12 A. Yes.

13 Q. And why were you opposed to that
14 deal?

15 A. Because I was starting to make some
16 money on the deal.

17 Q. Let us mark this as Bourg
18 Exhibit 5, please. Mr. Bourg, do you have the
19 document in front of you that we have marked as
20 Exhibit 5?

21 (Exhibit 5 was marked for identification)

22 A. Yes.

23 Q. Do you recognise this?

24 A. Yes.

25 Q. Have you seen it before?

1

2 A. Almost certainly, yes.

3 Q. What is it?

4 A. It is the minutes of a meeting
5 which took place with the participants as listed.

6 Q. And what type of meeting was this?

7 A. It was a meeting to inform the
8 participants as to the progress of the fund and
9 the kind of projects which would be included in
10 the fund.

11 Q. When you say the participants, what
12 do you mean?

13 A. The individuals who are listed here
14 at the top.

15 Q. Was this a meeting of SDG or
16 Triadou, or some other subsidiary?

17 A. No, it was a meeting initiated by
18 myself to inform, as I said, as to the progress of
19 the investment fund which I was managing and the
20 projects which would be incorporated in the fund
21 eventually.

22 Q. So the meeting was on 23rd May
23 2013; is that right?

24 A. Yes.

25 Q. And you and Kevin Meyer were there

1

2 on behalf of the SDG investment fund?

3 A. Yes.

4 Q. Then it says that Cesare Cerrito
5 was there on behalf of SDG SA; is that right?

6 A. Yes.

7 Q. And do you know Mr. Cerrito?

8 A. Yes.

9 Q. What is his role at SDG SA?

10 A. CFO.

11 Q. It also says that an individual
12 name Peter Sztyk was there; correct?

13 A. Yes.

14 Q. Who is Mr. Sztyk?

15 A. A friend and a close associate of
16 Ilyas Khrapunov.

17 Q. Why was Mr. Sztyk at this meeting?

18 A. Mr. Sztyk was present at many
19 meetings, this amongst others.

20 Q. Then there are three names,
21 Mr. Yassik, Mr. Zaharia and Mr. Krasnov?

22 A. Yes.

23 Q. They are all there, it says, for
24 the family office; is that right?

25 A. Yes.

1

2 Q. What does "family office" refer to?

3 A. It was the personal family office

4 of Ilyas.

5 Q. Then there is a few individuals

6 from SCRM Avocats; do you see that?

7 A. Yes.

8 Q. And who are they?

9 A. It was the lawyers representing or
10 for the Luxembourg investment fund.

11 Q. I am sorry, for the Luxembourg
12 investment fund?

13 A. And the Luxembourg entities that
14 Triadou.

15 Q. Then Marc Gillieron was there; is
16 that right?

17 A. Yes.

18 Q. Who is Mr. Gillieron?

19 A. He is a partner/lawyer, of
20 Chabrier, which is a lawyer firm in Switzerland.

21 Q. And who does Chabrier represent?

22 A. SDG and Ilyas Khrapunov.

23 Q. Then there was another lawyer, a
24 Perez-Pelletier, also from Chabrier; is that
25 right?

1

2 A. Yes.

3 Q. Can I ask you to turn to page 5 of
4 this agreement and let me direct your attention to
5 the top where it says, "Black Sea trade loan"?

6 A. Yes.

7 Q. Do you see where it says: "The
8 bank agreed on the loan(Euro 8M) but waits for KYC
9 information from Mr. Glatz"?

10 A. Yes.

11 Q. What is your understanding of that?

12 A. Well, in the framework of the Porto
13 Heli project, Dolphin, which was a 25% partner in
14 this project, had negotiated a loan from the
15 Black Sea Bank and, inasmuch as SDG held 75%, and
16 that Mr. Glatz was the new owner of SDG Capital,
17 the bank wanted further information about the new
18 owner of SDG Capital.

19 Q. Is that what is meant by, "KYC
20 information for Mr. Glatz"?

21 A. Yes.

22 Q. After this meeting, did Mr. Glatz
23 provide KYC information to the bank?

24 A. Yes, I think so.

25 Q. Was that information sufficient for

1

2 the bank?

3 A. I don't know, but the bank -- the
4 upshot of this is that the bank didn't want to
5 continue the loan arrangement.

6 Q. So the loan was never actually
7 made?

8 A. No.

9 Q. Do you know if the bank gave a
10 reason for not making the loan?

11 A. Yes, they thought Mr. Glatz was not
12 a credible purchaser of SDG Capital.

13 Q. Let us look a little further down
14 the page where it says, "Flatotel"?

15 A. Yes.

16 Q. Do you see under "Financing" it
17 says: "The project is fully financed through
18 loans granted by P. Sztyk vehicle to Triadou SPV
19 SA"?

20 A. Yes.

21 Q. Then it says: "No additional
22 information has been provided regarding the
23 financings"; that is correct?

24 A. Yes.

25 Q. You testified earlier that the

1

2 financing for the Triadou investments was provided
3 largely by an entity called Telford; correct?

4 A. Yes.

5 Q. So what is your understanding of
6 Mr. Sztyk's role to Telford?

7 A. That he was presented as the owner
8 of Telford.

9 Q. This is what was represented in the
10 meeting in May of 2013; is that correct?

11 MR. HASSID: Objection to the form.

12 A. Yes.

13 BY MR. SKINNER:

14 Q. Can you turn to the next page. Do
15 you see where it says, "Sale of Triadou SPV SA"?

16 A. Yes.

17 Q. It says that: "Today, Triadou SPV
18 SA is fully held by SDG Capital SA. SDG Capital SA
19 would like to sell its shares in Triadou SPV SA to
20 a vehicle owned by Mr. Sztyk."

21 A. Yes.

22 Q. It further says that Mr. Sztyk is
23 going to convert his debt into an equity position
24 in Triadou?

25 A. Yes.

1

2 Q. So was there discussion at this
3 meeting about selling Triadou's assets to
4 Mr. Sztyk?

5 A. It had been decided that Sztyk
6 should convert the Telford debt into equity and
7 would, therefore, by that fact, become owner of
8 Triadou.

9 Q. And did you understand at that time
10 that Mr. Sztyk owed -- had debts -- or, excuse me,
11 did you understand at that time that Triadou owned
12 debts to Mr. Sztyk?

13 A. Yes, apparently, as described here.

14 Q. Are you just saying that is what is
15 on the paper, or is what your understanding was
16 back in May of 2013?

17 A. No, I understood that in May 2013.

18 Q. You say that you testified earlier
19 that later, in legal proceedings in this case,
20 were aware of claims that Telford was owned by the
21 Petelins; is that right?

22 A. Yes.

23 Q. Do you know whether Telford was
24 owned by Peter Sztyk or by the Petelins?

25 A. It looks rather confused.

1

2 Q. Who controlled Telford?

3 A. Ilyas.

4 Q. Do you know why the meeting minutes
5 say that Mr. Sztyk was responsible for funding
6 Triadou?

7 MR. HASSID: Objection to the form.

8 A. No, I do not know.

9 BY MR. SKINNER:

10 Q. If you look underneath the sale of
11 Triadou there is a "to-do" list of things that
12 were supposed to happen in connection with the
13 sale of Triadou?

14 A. Yes.

15 Q. And Mr. Sztyk's lawyers were
16 supposed to conduct due diligence and set up an
17 acquisition vehicle and do some other things; is
18 that right?

19 A. Yes.

20 Q. Did Mr. Sztyk ever conduct due
21 diligence on Triadou?

22 A. Not to my knowledge.

23 Q. Was there ever any discussion of
24 setting up an acquisition vehicle for Triadou?

25 A. I do not know.

1

2 Triadou, and for Ilyas Khrapunov generally, what
3 e-mail address were you using for business
4 purposes?

5 A. I used three. Right, the three
6 were as follows: "sdg.ch"; number 2,
7 "sdg-if.ch" -- sorry, the second one is
8 "sdg-if.com"; and the third one is "e-1.lu".

9 Q. So the e-1.lu, is there a business
10 that that e-mail address is connected with?

11 A. It was when the fund was opened and
12 subject to regulation in Luxembourg; it was called
13 "element 1" at that time.

14 Q. The fund, you are referring to the
15 investment fund that you were creating for
16 Mr. Khrapunov?

17 A. Yes.

18 Q. And then the sdg-if.com address, is
19 that also associated with the investment fund?

20 A. As it was being set up; the fund as
21 it was being set up.

22 Q. The @sdg.ch, is that an e-mail
23 address that was affiliated with SDG?

24 A. Yes, it was when I started the
25 assignment.

1

2 Q. It was that SDG Capital or the
3 other SDG entity?

4 A. The other one.

5 Q. Which of these e-mails was your
6 primary e-mail address during the time that you
7 were working for Ilyas Khrapunov?

8 A. I never used all three at the same
9 time. They were all important, the one as the
10 other, since they succeeded each other. First
11 I would use the first and then I went on to the
12 second and then the third.

13 Q. I see. The so the first one you
14 used was the sdg.ch?

15 THE WITNESS: Oui.

16 BY MR. SKINNER:

17 Q. And then, after the fund was
18 actually established, you moved to the e-mail
19 addresses associated with the fund?

20 A. (Through the Interpreter) Yes, the
21 first one was when I was beginning, the second one
22 was while the fund was being set up, and the third
23 one was when it had been set up.

24 Q. When you left SDG, what, if
25 anything, did you do with the e-mails that you had

Page 81

1

2 MR. KENNEY: Fine.

3 THE VIDEOGRAPHER: We are going off
4 the record. The time is 12.10 p.m.

5 (Off the record st 12.10 p.m.)

6 (On the record at 1.27 p.m.)

7 THE VIDEOGRAPHER: We are back on
8 the record. The time is 1.27 p.m.

9 BY MR. SKINNER:

10 Q. Mr. Bourg, welcome back. Let me
11 direct your attention to the end of 2013. Did
12 there come a time at the end of 2013 when you had
13 a meeting with Mr. Ilyas Khrapunov where you
14 discussed some documents that he had obtained?

15 A. Yes.

16 Q. And where did this meeting take
17 place?

18 A. In the Geneva offices.

19 Q. The offices where you and
20 Mr. Khrapunov had offices physically located next
21 to each other?

22 A. Yes.

23 Q. And who was at this meeting?

24 A. Ilyas, Laurent Foucher and myself.

25 Q. And what happened at this meeting?

1

2 A. Well, it was end of afternoon
3 informal meeting. Ilyas showed us a pile of
4 documents and claimed that this was proof of
5 hacking, and he maintained that this was hacking
6 of the -- into the accounts of the French
7 prosecution authorities and the Kazak -- Kazak
8 prosecution.

9 Q. So this is what Mr. Ilyas Khrapunov
10 told you?

11 THE WITNESS: Oui.

12 BY MR. SKINNER:

13 Q. And when you say there was a pile
14 of documents, there was a physical printout of
15 documents that you saw?

16 A. (Through the Interpreter) Yes.

17 Q. What, if anything, did he say with
18 respect to who had done the hacking?

19 A. He told me about an Israeli society
20 -- company.

21 Q. Did Mr. Khrapunov explain what his
22 arrangement was with this Israeli hacking company
23 that allowed him to obtain these documents?

24 A. No, he just said that he received
25 all these documents every week in printed form,

1

2 and that he paid every week the sum of \$200,000
3 for this service.

4 Q. Did you have any conversation with
5 him with respect to the size of the amount that he
6 was paying?

7 A. No.

8 Q. You said that he indicated that he
9 had documents from French authorities; is that
10 right?

11 A. Yes, from the French prosecution in
12 the Ablyazov case -- the prosecutor.

13 Q. Were there documents from any other
14 government authorities other than the French
15 authorities?

16 A. Yes, he said that there was some
17 from the Kazakhstani prosecutor.

18 Q. Anyone else, other than the French
19 and the Kazakhstani authorities?

20 A. Not as far as -- not as far as
21 I know, or at least not what he told me.

22 Q. What would happen, if you know, in
23 connection with Mr. Ablyazov's case with the
24 French authorities at that point in time; did you
25 talk to Mr. Khrapunov about this?

1

2 question ----

3 MR. WOLF: Sorry, (unclear) 4.3.

4 THE INTERPRETER: There are four
5 lines in 4.3: Expenses. The company will also
6 undertake to pay all lodging and travel expenses
7 which have been reasonably incurred by Mr. Bourg
8 in the execution of this agreement, provided that
9 supporting evidence is provided. These expenses
10 will be reimbursed to Mr. Bourg at the end of each
11 month and -- in accordance with what has been
12 decided by the parties. The ceiling for these
13 expenses -- and this is in italics -- is fixed at
14 24,000 Swiss francs per annum, or 2,000 Swiss
15 francs per month.

16 BY MR. HASSID:

17 Q. Mr. Bourg, did you understand my
18 original question?

19 A. Yes.

20 Q. Is there a provision in this
21 section that entitles you to 20% bonuses on the
22 profits of the fund investments?

23 A. This is not the only contract which
24 has to do with the business arrangements I had
25 with Mr. Khrapunov.

1

2 Q. So is there another contract that
3 indicates you are entitled to 20%?

4 A. Yes, there is the regulation for
5 the real estate investment fund in Luxembourg,
6 which provides for a performance fee of 20% on the
7 profits of the management company which I owned.

8 Q. So, to clarify, is it in a written
9 agreement between you and either the fund or
10 Mr. Bourg, or are you saying that it is a legal
11 statute that entitles you to the profit?

12 MR. SKINNER: Objection.

13 A. No, it is an agreement made between
14 the fund feeders, including Ilyas, and in line
15 with Luxembourg regulations.

16 BY MR. HASSID:

17 Q. Do you recall if that is a document
18 you provided to Almaty and BTA?

19 THE INTERPRETER: What is the first
20 word, Almaty?

21 MR. HASSID: Almaty.

22 A. Well, I would like to know exactly
23 which document you are referring to there, the one
24 that we have just been talking about, the 20%, or
25 something else?

1

2 BY MR. HASSID:

3 Q. Correct, yes.

4 A. I don't think so.

5 MR. HASSID: I know you are not
6 necessarily taking requests, Mr. Wolf, but we
7 would request that Mr. Bourg produce that
8 document, if he still has it.

9 BY MR. HASSID:

10 Q. Mr. Bourg, I am now actually going
11 to hand you two documents at a time, to try and
12 save some time. Mr. Bourg, I will represent to
13 you that these are your declarations, your May
14 2016 declarations, and the exhibits that were
15 attached, given in this case. We printed them
16 directly off the filing of the ECF pacer website,
17 so this is directly from the court. Have you seen
18 these before?

19 (Exhibits 9 and 10 were marked for identification)

20 A. Yes.

21 Q. At the hearing -- and you testified
22 that the contents of your declarations are true
23 and accurate, but this morning you indicated that
24 they are mostly accurate, but there may be some
25 clarifications needed for dates. Did I recall

1

2 that right?

3 MR. SKINNER: Objection.

4 A. No. No, that is not what I have
5 said.

6 BY MR. HASSID:

7 Q. What did you say?

8 A. No, I confirmed these declarations,
9 the statements, are correct, but that I noticed
10 that I had made a slight error, perhaps, or
11 confusion about dates. One date, one date.

12 Q. Which date?

13 A. It was April ----

14 Q. Perhaps I can help you. If you
15 look at paragraph 37?

16 MR. SKINNER: Which one are we
17 looking at now?

18 MR. HASSID: The main declaration.

19 MR. SKINNER: Did we mark these?

20 MR. HASSID: Yes, they have been
21 marked as 9 and 10.

22 A. Yes, you are right.

23 BY MR. HASSID:

24 Q. So in paragraph 37 you say: "In
25 2014 I learned that the city of Almaty, Kazakhstan

1

2 had filed an action in the state of California
3 against members of the Khrapunov family seeking to
4 seize real estate investments that the Khrapunov
5 family owned..."

6 A. Mmm-hmm.

7 Q. Was that a yes?

8 A. Yes.

9 Q. In paragraph 38 you say: "In
10 response to this lawsuit" -- and is that what you
11 are changing, the "in response to" --you are
12 saying now it was in April 2014 when Mr. Khrapunov
13 directed you to liquidate the Flatotel?

14 MR. SKINNER: Objection.

15 A. No.

16 BY MR. HASSID:

17 Q. Please clarify for me what you were
18 saying?

19 A. In paragraph 37 it says in 2014
20 I learnt that the city of Almaty was liable to
21 make -- to file a suit. But it was more than
22 probable that they would.

23 Q. Where did you obtain that
24 understanding?

25 A. Ilyas.

1

2 Q. Your testimony is that Ilyas
3 Khrapunov told you that Almaty was going to file a
4 suit in California?

5 A. Yes, that they were intending to do
6 it.

7 Q. Did he tell you that verbally or in
8 writing?

9 A. Verbally.

10 Q. So there are no documents
11 confirming that he told you this?

12 A. No, but the consequence of this
13 surmise, or whatever, was to prompt me to start
14 negotiations with Chetrit to sell Triadou. No, to
15 sell -- to sell part of Flatotel in Cabrini.

16 Q. Mr. Bourg, I am handing you what
17 has been marked as Exhibit 11. Mr. Bourg, do you
18 recognise that document?

19 (Exhibit 11 was marked for identification)

20 A. No.

21 Q. Please take a minute to look at it.
22 (Pause for reading).

23 THE WITNESS: May I ask for a
24 break, please?

25 MR. HASSID: Not while -- I mean,

1

2 A. Yes, but I repeat, as I said
3 before, I did not have them all at the same time,
4 I used them consecutively.

5 Q. So when you changed over e-mail
6 addresses from one to the other, were your old
7 e-mail accounts wrapped into them, so you had
8 access to all of your files in one set?

9 A. Forwarded at least.

10 Q. Forwarded?

11 A. They were forwarded.

12 Q. Do you recall who created the
13 sdg-if.com e-mail?

14 A. No.

15 Q. Who owned Element 1?

16 A. I did.

17 Q. Anyone else?

18 A. Mr. Glatz must have had some kind
19 of share in the management company, but he never
20 turned up in Luxembourg or came to any meetings as
21 a shareholder of the company.

22 Q. None of the SPVs that were created
23 to be incorporated in the fund were actually
24 incorporated into the fund; correct?

25 MR. SKINNER: Objection.

1

2 A. No, unfortunately, they were not
3 incorporated.

4 BY MR. HASSID:

5 Q. What is the current status of
6 Element 1?

7 A. I liquidated it.

8 Q. When did that happen?

9 A. When the Luxembourg judge asked me
10 to do so. I cannot recall the exact date. The
11 reason was that Element 1 did not meet the
12 requirements for the minimum amount of capital
13 which was being provided by Mr. Glatz, or SDG
14 Capital.

15 Q. So if the fund has been liquidated
16 it is not currently conducting any business;
17 correct?

18 A. Right.

19 Q. Did the fund ever conduct any
20 business?

21 MR. KENNEY: Could I ask that we
22 distinguish between the fund and the management
23 fund, management (unclear).

24 MR. HASSID: In the question?

25 MR. KENNEY: Unless I am mistaken,

Page 125

1
2 there is a management company and a fund, and
3 I think we are referring to them as all the same
4 word.

5 THE INTERPRETER: I have lost it
6 now, I am sorry.

7 BY MR. HASSID:

8 Q. What was the management company for
9 Element 1, or was Element 1 the management
10 company?

11 A. In order to set up such fund in
12 Luxembourg you have to have a SIF -- S-I-F -- and
13 there are two legal forms of doing that; to be a
14 SIF we chose the first way forward, which was to
15 set up a company ----

16 THE WITNESS: It is the legal form
17 of the company.

18 THE INTERPRETER: A company which
19 would be based on shareholding ----

20 THE WITNESS: No.

21 A. (Through the Interpreter) To be a
22 regulated SIF fund, you have to meet with definite
23 legal structures. One of those, the one we chose
24 to set up Element 1, is a company ----

25 THE INTERPRETER: And I do not know

1

2 how to translate this, I am sorry ----

3 A. (Through the Interpreter) -- which

4 is based on shares. "Un commodite par action". (?)

5 This type of company requires two distinct bodies

6 or entities to be established and that is a

7 management company and a holding company, which

8 has the money -- which has the funds. And both of

9 them are called Element 1.

10 BY MR. HASSID:

11 Q. Got it. So, let's talk about SDG

12 Capital. I would like to call SDG Capital just

13 SDG, so if I mean something other, one of the

14 subsidiaries, I will use different terminology; is

15 that okay?

16 A. Okay.

17 Q. SDG was formed before you were

18 hired as a consultant in July 2011; correct?

19 A. Yes.

20 Q. At the time it was formed, do you

21 know who owned it?

22 A. Ilyas Khrapunov.

23 Q. Your contention is Ilyas Khrapunov

24 owned it, or that he was the owner in name; in

25 other words, did he legally own it?

1

2 MR. SKINNER: Objection to form.

3 MR. HASSID: It is a bad question.

4 THE INTERPRETER: I think so, yes.

5 BY MR. HASSID:

6 Q. Did you understand that Elvira
7 Khrapunov or Elvira Korivashova(?) owned SDG
8 Capital at some point?

9 A. Yes, I remember there was a change
10 from Ilyas to his sister.

11 Q. Did you see any documents
12 reflecting that change?

13 A. No.

14 Q. In your role as an external
15 consultant to SDG, did you have access to SDG's
16 financial statements?

17 A. I cannot recall.

18 Q. Were you involved in SDG's real
19 estate development projects in Switzerland?

20 A. No.

21 Q. Were you ever an officer, director
22 or owner of SDG?

23 A. No.

24 Q. Were you ever responsible for
25 managing or directing SDG's day-to-day operations?

1

2 A. No.

3 Q. In October 2014, your consultancy
4 with SDG ended. Was that a termination or a
5 voluntary departure from SDG?

6 A. No, my role, which -- my role, as
7 defined by the management contract which we have
8 alluded to before, was never terminated, in fact
9 it is still in force. But what I received in
10 October 2014 was a letter terminating my role in
11 Triadou as director.

12 Q. So, after your termination as
13 director of Triadou, did you have any involvement
14 in SDG's affairs after that time?

15 A. Yes, I think my role was to sell
16 the Triadou assets to Chetrit.

17 Q. So you believe you were selling the
18 Triadou assets to Chetrit after you were
19 terminated as Triadou's director?

20 A. No, it was initiated well in
21 advance of that, but discussions had to be
22 prolonged because Chetrit was not prepared to pay.

23 Q. Other than that, other than that
24 activity, dealing with Chetrit, what involvement
25 did you have in SDG's affairs after you were

1

2 terminated as director of Triadou?

3 A. I remember that, despite the fact
4 that I had already received a termination letter
5 from -- for my role as director of Triadou, Ilyas
6 Khrapunov wanted to continue the activity of
7 Element 1, but it never happened.

8 Q. Mr. Bourg, I think you said a
9 little earlier today -- and correct me if I am
10 wrong -- that you were the sole director of
11 Triadou?

12 A. Well, until such time as I received
13 the termination letter, yes.

14 Q. When was Triadou formed?

15 A. I think it was in 2012.

16 Q. Can you pull out Exhibit 9, please.
17 Exhibit 9 is the May 2nd declaration, the one in
18 the spiral bound book. Can you look at paragraph
19 2. It says you were the sole director of Triadou
20 SPV SA from its formation in 2011 "by myself and
21 Ilyas Khrapunov" and you just said it was formed,
22 you think, in 2012. Do you know which of those is
23 accurate?

24 A. Well, it was 2011 or 2012, I cannot
25 recall exactly when.

1

2 A. I think it was the end of 2014.

3 BY MR. HASSID:

4 Q. So around the time you were
5 terminated as director of Triadou?

6 A. A couple of months later.

7 Q. So, focusing on the time when you
8 were Triadou's director, what were your
9 responsibilities?

10 A. Well, I was the legal administrator
11 of Triadou as director, I had a legal
12 responsibility. But my role was to manage the
13 investments that Triadou was making.

14 Q. By the way, when we were talking
15 about Element 1 before, were you looking to find
16 investments or investors?

17 A. Both.

18 Q. Were you looking for investors
19 other than Ilyas Krapunov's family members?

20 A. The strategy was as follows; the
21 fund was set up, ceded by the Krapunov family
22 under Triadou projects, and then there was a
23 fund-raising activity for finding further
24 investors.

25 Q. Going back to your time as

1

2 Triadou's director, were you responsible for
3 preparing and keeping financial statements of the
4 company?

5 A. No.

6 Q. Who was responsible for that?

7 A. SDG.

8 Q. Did you provide the information SDG
9 might need to creates those statements?

10 A. Yes, of course.

11 Q. When you were director, did Triadou
12 have any employees?

13 A. No.

14 Q. When you were director, were you
15 responsible for entering or signing agreements on
16 behalf of Triadou?

17 A. Yes.

18 Q. Did you maintain those documents?

19 A. Maintain?

20 Q. Keep in your possession?

21 MR. SKINNER: Objection.

22 A. No, I did not keep any physical
23 document, but of course all documents were on my
24 computer.

25 BY MR. HASSID:

Page 142

1
2 page 8. In paragraph 31 you say: "As explained
3 above, SDG was created with the funds of the
4 Khrapunov extended family, members of which
5 (including Ablyazov, and Ilyas's father, Viktor
6 Khrapunov) I understood to be facing criminal
7 investigations in Kazakhstan and eventually in
8 Switzerland."

9 A. Yes.

10 Q. Why did you say in your May 2016
11 declaration that the funds were created by --
12 funds were drawn from Ilyas's extended family,
13 while in March 2016 SDG was created from funds
14 from Ilyas' mother?

15 A. I think that what I was trying to
16 say was that SDG benefited from the funds coming
17 from an extended family, whereas the actual
18 creation or the setting up of the company came
19 from the mother.

20 Q. Well, in paragraph 31 you use the
21 word "Created".

22 THE WITNESS: Okay.

23 BY MR. HASSID:

24 Q. You agree with that?

25 A. (Through the Interpreter) Yes.

1

2 MR. SKINNER: Object to form.

3 BY MR. HASSID:

4 Q. Did you obtain any new information
5 between your May 2016 and June 2016 declarations
6 that caused this change?

7 A. Yes, I think essentially it was a
8 lack of precision on my part in paragraph 31, and
9 instead of saying it "was created" I should have
10 said, "Was created and financed".

11 Q. Sticking with paragraph 31, what is
12 the basis for your statement that SDG was created
13 with funds from Ablyazov?

14 A. Let me repeat what I already said,
15 it was a lack of precision here, accuracy, between
16 "created" and "financed".

17 Q. I understand now. Let me rephrase
18 my question. Thank you. What is the basis for
19 your statement that SDG was financed with funds
20 from Mr. Ablyazov?

21 A. Financed by Ablyazov. SDG issued a
22 bond which was entirely subscribed, he said, by
23 his family under -- which included Mr. Ablyazov.
24 And this bond, if I remember correctly, was in the
25 order of 80 million.

1

2 then I understood better, or they told me more
3 about what Ablyazov was accused of and I made my
4 own opinion on that basis.

5 Q. I think we are getting close to the
6 end of the videotape. Can we go off the record?

7 THE VIDEOGRAPHER: We are going off
8 the record. The time is 3.35.

9 (Off the record at 3.35 p.m.)

10 (Back on the Record at 3.54 p.m.)

11 THE VIDEOGRAPHER: We are back on
12 the record. The time is 3.54 p.m.

13 BY MR. HASSID:

14 Q. Welcome back, Mr. Bourg.

15 THE WITNESS: Thank you.

16 Q. In your Exhibit 9, your May 2nd
17 declaration from 2016 in paragraph 4, you say
18 Ilyas told you that he had access to large amounts
19 of capital, both through his immediate family and
20 through his father-in-law, Mukhtar Ablyazov. The
21 beginning of that paragraph says, "At that time",
22 when are you referring to?

23 A. It was at the beginning of our
24 collaboration.

25 Q. The beginning of your

Page 150

1

2 collaboration, meaning in 2011, or the beginning
3 of your collaboration, meaning when you met him in
4 those rare occurrences from 2006 through 2011?

5 A. 2011.

6 Q. So you didn't know before then?

7 A. No, but it was well-known in
8 Switzerland that he was a wealthy person and he
9 came from a wealthy family and, moreover, he was
10 classified as one of the wealthiest people in
11 Switzerland by the magazine Bilan -- B-I-L-A-N.

12 Q. Did Ilyas Khrapunov tell you this
13 information verbally, or in writing?

14 A. Verbally.

15 Q. Later in the paragraph you say that
16 Ilyas stated his immediate and extended family
17 were in exile from Kazakhstan after being
18 persecuted by that country's government and for
19 that reason they needed to keep their finances
20 secret and conceal their business dealings?

21 A. Yes.

22 Q. What time frame are you talking
23 about Ilyas told you this -- still in paragraph 4.

24 A. At that time.

25 Q. No, in the middle of the paragraph,

1

2 you is, in 2016 when you made this declaration,
3 did you view the value of the project as having
4 gone up or down?

5 A. I think at the -- I think at the
6 time of the evaluation here we were basing
7 ourselves on the document submitted by Chetrit,
8 and these documents, they gave us to understand
9 they would be in the order of 100 million profit
10 for Triadou.

11 Q. Right, but I am asking you
12 separately. So at the time you made your
13 declaration, so in May of 2016, I am asking
14 whether you understood the value of the Flatotel,
15 if Triadou had retained its interest, whether that
16 would have gone up or down?

17 A. No, that is not what I wanted to
18 say ----

19 Q. I am not asking what you wrote,
20 I am asking your separate understanding.

21 A. Yes, I think that it would have
22 been in the order of 80-100 million profit if
23 Triadou had remained until the end of the project.

24 Q. Can you turn to Exhibit 11, which
25 is your March 2016 declaration. Then when you are

1

2 there please turn to paragraph 12. 11, your March
3 2016 exhibit, paragraph 12, please. So this
4 paragraph is similar to the one we just looked at,
5 except there you say: "Based on current
6 evaluations of the real estate market in New York
7 City, Triadou's interest in this transaction would
8 be worth approximately \$100 million, plus
9 reimbursement of the initial investment, for a
10 total in the vicinity of \$130 million." Do you
11 see that?

12 THE WITNESS: Mmm-hmm.

13 Q. There you use the language, "based
14 on current valuations of the real estate market."

15 THE WITNESS: Mmm-hmm.

16 A. (Through the Interpreter) Yes, the
17 market conditions have not substantially changed
18 since the creation of the project.

19 Q. So in March 2016, your opinion is
20 that market conditions were roughly the same as
21 when Triadou invested in 2012?

22 A. Yes.

23 Q. When you say, "based on current
24 evaluations in the real estate market", what
25 evaluations are you referring to?

Page 220

1

2 CERTIFICATE OF COURT REPORTER

3

4 I, Paula Foley, Accredited Court Reporter,

5 do hereby certify that I took the Stenograph notes

6 of the foregoing deposition, and that the

7 transcript thereof is a true and accurate record

8 transcribed to the best of my skill and ability.

9 I further certify that I am neither

10 counsel for, related to, nor employed by any of

11 the parties to the action in which the deposition

12 was taken, and that I am not a relative or

13 employee of any attorney or counsel employed by

14 the parties hereto, nor financially or otherwise

15 interested in the outcome of the action.

16

17


.....

22

PAULA FOLEY

24

25 Dated this day of 2017